

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Parts 1, 21, 73, 74 and 101 of	)	WT Docket No. 03-66
the Commission's Rules to Facilitate the	)	RM-10586
Provision of Fixed and Mobile Broadband	)	
Access, Educational and Other Advanced	)	
Services in the 2150-2162 and 2500-2690 MHz	)	
Bands	)	
	)	
Part 1 of the Commission's Rules - Further	)	WT Docket No. 03-67
Competitive Bidding Procedures	)	
	)	
Amendment of Parts 21 and 74 to Enable	)	MM Docket No. 97-217
Multipoint Distribution Service and the	)	
Instructional Television Fixed Service to	)	
Engage in Fixed Two-Way Transmissions	)	
	)	
Amendment of Parts 21 and 74 of the	)	WT Docket No. 02-68
Commission's Rules With Regard to Licensing in	)	RM-9718
the Multipoint Distribution Service and in the	)	
Instructional Television Fixed Service for the	)	
Gulf of Mexico	)	
	)	
Promoting Efficient Use of Spectrum Through	)	WT Docket No. 00-230
Elimination of Barriers to the Development of	)	
Secondary Markets	)	

**REPLY COMMENTS OF STANFORD UNIVERSITY ON  
FURTHER NOTICE OF PROPOSED RULEMAKING**

Pursuant to Section 1.415 of the Commission's Rules (47 C.F.R. § 1.415), The Board of Trustees of the Leland Stanford Junior University ("Stanford") submits the following response to the Comments filed with respect to the Notice of Proposed Rulemaking in the above-referenced docket.

Stanford has been licensed to operate an ITFS system in the San Francisco Bay Area for over 30 years. The Stanford Center for Professional Development through the Stanford Instructional Television Network ("SITN") transmits hundreds of courses each year in a variety of engineering and scientific subject areas to enrolled university students. SITN transmits 350 programming hours per week over five ITFS channels. Stanford also provides for-credit coursework to enrolled students at business sites throughout the Bay Area and non-credit instructional programming to several thousand more students, for a combined total of over 6,000 industry students participating in over 250 Stanford University graduate programs and courses.

**I. GRANDFATHERED ITFS STATIONS MUST PARTICIPATE IN THE NEW BAND PLAN ON AN EQUAL FOOTING WITH OTHER ITFS STATIONS AND WITHOUT LOSS OF EXISTING STATION RIGHTS**

Stanford agrees with many of the commenting parties that the grandfathered E and F channels should participate in the new regulatory regime on an equal footing with other ITFS stations and without loss of existing spectrum rights.<sup>1</sup> As the Commission has stated:

We emphasize, however, that we do not intend to evict any incumbent licensees from the affected band . . . nor do

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<sup>1</sup> See Joint Comments of The Catholic Television Network and the National ITFS Association at 2-7; Comments of Trans Video Communications, Inc. at 3-18; Further Comments of the School Board of Miami Dade County Florida at 2-3; Comments of Red New York E Partnership at 2-6

we intend to undermine the educational mission of ITFS licensees.<sup>2</sup>

Stanford actively uses its EBS channels to provide interactive educational and instructional programming for students of all kinds throughout the region, both in degree programs and in continuing education studies. Stanford also provides graduate level courses to employees at many large corporations, such as Cisco, IBM, and Sun Microsystems. These courses are provided pursuant to licensing agreements between Stanford and the companies, and provide employees with the opportunity to receive course credit at their worksite. They thus serve a critically important role in helping our nation maintain and improve its competitiveness in the world economy. The cost efficiency of providing instructional programming via EBS broadcasts is vital to the continued availability of these important services.

The protection provided to grandfathered E- and F-channel ITFS licensees, most recently through the grant of Protected Service Areas in 1998,<sup>3</sup> has enabled them both to continue to serve their educational communities and, where leasing excess capacity to commercial service providers is possible, garner additional

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<sup>2</sup> Amendment of Parts 1, 21, 73, 74, and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, WT Docket No. 03-66, RM-10586, *Notice of Proposed Rulemaking and Memorandum Opinion and Order*, 18 FCC Rcd 6722, 6725 ¶ 2 (2003) ("*NPRM*").

<sup>3</sup> See Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions, MM Docket No. 97-217, *Report and Order*, 13 FCC Rcd 19112, 19173 ¶ 114 (1998) ("*Two-Way R&O*").

funding that provides support for their educational mission. Their expectation under the new EBS regime must be that such protection will continue, albeit modified to reflect the new spectrum plan. The Commission should assure that grandfathered ITFS licensees maintain their pre-existing spectrum rights to the same extent as all other ITFS licensees under the new BRS/EBS band plan. Specifically, the Commission should maintain their right to operate free of interference from co-channel MDS licensees in the same geographic area. Grandfathered ITFS licensees should also have the same rights as other ITFS stations to evolve their facilities into the EBS, now that the Commission has fundamentally changed the operating paradigm for all ITFS and MDS stations.<sup>4</sup>

Thus, grandfathered ITFS operators should obtain spectrum rights within a GSA under the new band plan and rules. Overlay E- and F-channel MDS licensees will neither gain nor lose from such a policy, because their operating rights were conditioned on protection of the grandfathered ITFS station's PSA in any event.

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<sup>4</sup> Freezing grandfathered ITFS stations in their current service configurations rather than allowing them to transition to new frequencies is not practical under the new band plan. Because grandfathered ITFS stations operate as stand-alone four-channel high power stations, it would be difficult for new cellularized, low-power BRS/EBS stations to protect them from interference. Requiring grandfathered ITFS stations to remain in their current configurations would thus hinder the roll-out of broadband services in those markets. Freezing grandfathered ITFS stations would also ignore the Commission's 1998 decision to award *all* ITFS licensees a protected service area. Restricting interference protection just to grandfathered ITFS receive sites would deprive grandfathered ITFS stations of important current spectrum rights, an outcome that was expressly disavowed by the Commission in commencing this proceeding.

Adopting rules for grandfathered ITFS stations as described above is especially critical for Stanford's educational mission. It uses its E channel as a principal means of transmitting its extensive educational programming. If, as the Commission has suggested as at least a possible alternative,<sup>5</sup> Stanford's E channels were relegated to secondary status vis-à-vis the co-channel MDS licensee in the area, the Commission would substantially disrupt Stanford's ability to continue to provide critical educational and instructional programming.

## **II. THE COMMISSION SHOULD ALLOW FOR AN ALTERNATIVE TRANSITION PLAN IN AREAS WHERE NO PROPONENT FILES A TIMELY INITIATION PLAN**

Stanford shares the concern of many commenting parties with regard to the Commission's statements suggesting that licensees in areas where no timely initiation plan is filed will face the possibility of losing their licenses.<sup>6</sup> Certain markets may not be transitioned for a variety of reasons that have nothing to do with efficiency, including, as noted by the Hispanic Information and Telecommunications Network, the fact that an operator may have an "incentive to delay transitions in certain regions . . . if it believed that it would be cheaper to

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<sup>5</sup> Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, WT Docket No. 03-66, RM-10586, *Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 14165, 14290 ¶ 338 (2004) ("*FNPRM*").

<sup>6</sup> *FNPRM* at 14201 ¶¶ 81-83

transition the band after the FCC cleared the band of untransitioned licensees.”<sup>7</sup>

The Commission’s plan of providing bidding credits may not be sufficient to allow incumbent licensees to regain their operating rights. For example, bidding credits tied to current service areas may apply for only a portion of an MSA, while a competing commercial bidder may be bidding on the entire MSA, which could thus potentially preclude EBS licensees from making an effective bid on their current spectrum.

The Commission should provide for an additional period in which individual licensees can self-transition their stations without taking it upon themselves to initiate a band plan for their area. A licensee should have at least 60 days, and preferably a longer period, after the expiration of the Initiation Plan filing deadline to notify the Commission “whether it will self-transition, accept bidding credits in exchange for cancellation of its license or accept a single channel in the MBS and reimbursement of its costs of migration to that channel.”<sup>8</sup> This reasonable modification of the transition process would assure that no licensee loses all or part of its spectrum merely because no Initiation Plan has been filed.

However, the Commission should not limit a self-transitioning licensee’s spectrum to a single 6 MHz channel in the MBS. Limiting the potential self-transition spectrum to one 6 MHz channel places certain ITFS licensees, including

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<sup>7</sup> Comments of Hispanic Information and Telecommunications Networks at 8.

<sup>8</sup> Comments of WTA at 19.

Stanford, at a major disadvantage in accomplishing their mission of providing educational and instructional services to the greatest possible numbers. As Stanford noted in its Initial Comments in this proceeding, the Commission's suggestion that the use of 5:1 digital compression will allow EBS licensees to maintain current educational service levels with fewer channels does not account for the need to provide a sufficient level of quality for effective classroom activities. While 5:1 compression testing has improved over the past few years, it still produces unsatisfactory quality and delay. Instead, the Commission should allow self-transitioning licensees to obtain the same 6 MHz MBS channel and three 5.5 MHz UBS or LBS channels that the spectrum rebanding would otherwise provide. The additional low power channels would provide the potential for Stanford to provide new innovative, educational services. In addition, Stanford may require more capacity for high-power operations or high-power-type services than the single 6 MHz channel would provide. With the additional low-power channels available after a self-transition, Stanford might be able to arrange, through negotiations with all affected parties, to provide some additional high power services over this low power channels.<sup>9</sup>

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<sup>9</sup> See *FNPRM* at ¶ 72.

Respectfully submitted,

BOARD OF TRUSTEES OF THE LELAND  
STANFORD JUNIOR UNIVERSITY

/s/ John I. Stewart, Jr.

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February 8, 2005



## **CERTIFICATE OF SERVICE**

I, Michael Lazarus, hereby certify that I have on this 8th day of February, 2005, caused to be served a true and correct copy of the foregoing "Reply Comments of Stanford University on Further Notice of Proposed Rulemaking" upon the following parties via hand delivery (indicated with an asterisk (\*)) or first-class United States mail, postage prepaid:

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